



01-29-07

JFW #

PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

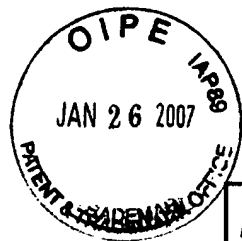
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)		Application Number	09/733,691-Conf. #3233
		Filing Date	December 7, 2000
		First Named Inventor	Jeffrey D. Carnevali
		Art Unit	3632
		Examiner Name	G. W. Baxter
Total Number of Pages in This Submission	10 + 34 references	Attorney Docket Number	20339/1202884-US1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Certificate of Express Mailing (1 page)
<input checked="" type="checkbox"/> Information Disclosure Statement - Supplemental	<input type="checkbox"/> CD, Number of CD(s) _____	Form SB-08 (2 pages)
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	Copies of 34 cited references
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application		Check in the amount of \$180.00
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		Return Receipt Postcard
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	DARBY & DARBY P.C.		
Signature			
Printed name	Bruce E. Black		
Date	January 26, 2007	Reg. No.	41,622



PTO/SB/17 (07-06)

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<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b>		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>For FY 2006</b>		Application Number	09/733,691 – Conf. #3233
		Filing Date	December 7, 2000
		First Named Inventor	Jeffrey D. Carnevali
		Examiner Name	G.W. Baxter
		Art Unit	3632
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	20339/1202884-US1
<b>TOTAL AMOUNT OF PAYMENT</b>	<b>(\$)</b> 180.00		

<b>METHOD OF PAYMENT</b> (check all that apply)	
<input checked="" type="checkbox"/> Check	<input type="checkbox"/> Credit Card
<input type="checkbox"/> Money Order	<input type="checkbox"/> None
<input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account	Deposit Account Number: <u>04-0100</u> Deposit Account Name: <u>Darby &amp; Darby P.C.</u>
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, <b>except for the filing fee</b>
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

<b>FEE CALCULATION</b>							
<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>							
	<b>FILING FEES</b>		<b>SEARCH FEES</b>		<b>EXAMINATION FEES</b>		
		<b>Small Entity</b>		<b>Small Entity</b>		<b>Small Entity</b>	
<b>Application Type</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fees Paid (\$)</b>
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	
<b>2. EXCESS CLAIM FEES</b>							
<b>Fee Description</b>						<b>Small Entity</b>	
						<b>Fee (\$)</b>	<b>Fee (\$)</b>
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>			
				<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>		
HP = highest number of total claims paid for, if greater than 20.							
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>				
HP = highest number of independent claims paid for, if greater than 3.							
<b>3. APPLICATION SIZE FEE</b>							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>			
- 100 = _____ /50 _____ (round up to a whole number) x _____ = _____							
<b>4. OTHER FEE(S)</b>							
							<b>Fees Paid (\$)</b>
Non-English Specification, \$130 fee (no small entity discount)							
Other (e.g., late filing surcharge): 1806 Submission of an Information Disclosure Statement							180.00

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	41,622
Name (Print/Type)	Bruce E. Black	Telephone	(206) 262-8900
		Date	January 26, 2007



- ☐ A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above identified national application
- ☐ B. before the mailing date of a first office action on the merits, or a first office action after filing a request for continued examination.
- ☒ C. after (A) and (B) above, but before final rejection or allowance, and Applicants have made the necessary statement in box "i" below or paid the necessary fee in box "ii" below.

(check one of the boxes "i" and "ii" below:)

- ☐ i. Counsel states that, upon information and belief, each item of information listed herein was (check one of boxes (a) or (b))
- ☐ (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- ☐ (b) not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.
- ☒ ii. A check for the fee set forth in 1. 17(p), presently believed to be \$180, is enclosed.
- ☐ D. after (A), (B) and (C) above, but before payment of the issue fee: Applicant petitions under 37 C.F.R. 1.97(d) for the consideration of this IDS. Under 37 CFR 1.17(i) a check in the amount of \$180.00 is enclosed. Counsel certifies that, upon information and belief, each item of information listed herein was

(check one of the boxes "a" and "b" below:)

- ☐ (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- ☐ (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO/SB/08) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document listed is attached, except as explained below.

(check boxes A, B and/or C and fill in blanks, if appropriate.)

- ☒ A. Pursuant to the 37 C.F.R. § 1.98(a)(2)(ii), a copy/copies of the **U.S. Patent(s) and/or U.S. Patent Application Publication(s)** on PTO/SB08 is/are not being submitted.
- ☐ B. Document(s) \_\_\_\_\_ is (are) deemed substantially cumulative to document(s) \_\_\_\_\_, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.
- ☐ C. Certain documents were previously cited by or submitted to the Office in the following prior applications, which are relied upon under 35 U.S.C. 120:

<<INSERT SERIAL NO. & FILING DATE>>

Applicant identifies these documents by attaching hereto copies of the forms PTO-892, PTO-1449 and/or PTO/SB/08 from the files of the prior application(s) or a fresh PTO/SB/08 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application.

- ☐ 3. Cite No(s). \_\_\_\_\_ are not in the English language.  
In accordance with 1.98(c), Applicant states:

- For the purpose of clarification, please note that when considering the Non-Patent Literature submitted herewith, the Plaintiff (and owner of the '885 patent and present patent application) is NATIONAL PRODUCTS, INC. and the Defendant is GAMBER-JOHNSON LLC.**

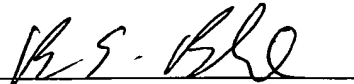
6. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56 (b), or that any cited document listed or attached is (or constitutes) prior art. Unless other-wise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

Early and favorable consideration is earnestly solicited.

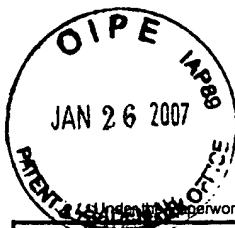
A check in the amount of \$180.00 covering the fee set forth in 37 CFR 1.17(p) is enclosed. The Commissioner is authorized to charge any deficiency of up to \$300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Dated: January 26, 2007

Respectfully submitted,

By   
Bruce E. Black

Registration No.: 41,622  
DARBY & DARBY P.C.  
P.O. Box 5257  
New York, New York 10150-5257  
(206) 262-8900  
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Attorneys/Agents For Applicant



PTO/SB/08A/B (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>Substitute for form 1449/PTO</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)		<b>Complete if Known</b>			
		Application Number	09/733,691-Conf. #3233		
		Filing Date	December 7, 2000		
		First Named Inventor	Jeffrey D. Carnevali		
		Art Unit	3632		
		Examiner Name	G. W. Baxter		
Sheet	1	of	2	Attorney Docket Number	20339/1202884-US1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	CA	National Products, Inc. v. Gamber-Johnson, LLC, Civil Docket Sheet, U.S.D.C. Western District of Washington, Case No: 04-CV-02524-MJP.	
	CB	First Amended Complaint, dated April 7, 2005. (w/Exhibits 1-2).	
	CC	Defendant Gamber-Johnson, LLC's Amended Answer and Counterclaims, dated April 25, 2005.	
	CD	Reply to Counterclaims, dated May 9, 2005.	
	CE	Plaintiff's Amended Disclosure of Asserted Claims and Preliminary Infringement Contentions, dated October 14, 2005. (w/Appendix A).	
	CF	Gamber Johnson LLC's Disclosure of Preliminary Invalidity Contentions, dated October 24, 2005. (w/Appendices I-II and Exhibits A-E (Exhibit D Redacted to remove Gamber-Johnson's Confidential Information)).	
	CG	Gamber-Johnson LLC's Prehearing Statement, dated January 3, 2006. (w/Appendices I-II).	
	CH	Plaintiff's Prehearing Statement, dated January 3, 2006. (w/Exhibit A).	
	CI	Joint Claim Chart, dated January 3, 2006.	
	CJ	NPI's Opening Claim Construction Brief (Redacted Defendant Gamber-Johnson's Confidential Information), dated January 17, 2006. (w/Appendix A).	
	CK	Declaration of Robert L. Jacobson in Support of NPI's Opening Claim Construction Brief, dated January 17, 2006. (w/Exhibits A-G (Redacted Defendant Gamber-Johnson's Confidential Information)).	
	CL	Gamber-Johnson LLC's Claim Interpretation Brief, dated January 17, 2006. (w/Appendices I-IV).	
	CM	Declaration of Andrew M. Ollis in Support of Gamber Johnson LLC's Claim Interpretation Brief, dated January 17, 2006. (w/Exhibits A-I).	
	CN	Submission of the First Amended Joint Claim Chart, dated January 27, 2006.	
	CO	NPI's Responsive Claim Construction Brief, dated January 30, 2006.	

Examiner Signature		Date Considered	
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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	09/733,691-Conf. #3233
				Filing Date	December 7, 2000
				First Named Inventor	Jeffrey D. Carnevali
				Art Unit	3632
				Examiner Name	G. W. Baxter
Sheet	2	of	2	Attorney Docket Number	20339/1202884-US1

	CP	Gamber Johnson LLC's Rebuttal Claim Interpretation Brief, dated January 30, 2006.	
	CQ	Order on Claim Construction, dated February 27, 2006.	
	CR	Defendant Gamber-Johnson LLC's Third Motion for Partial Summary Judgment of Invalidity (Obviousness) of Claims 30, 35 & 36, of U.S. Patent No. 5,845,885, dated April 20, 2006. (w/Appendices I-IV).	
	CS	Defendant Gamber-Johnson LLC's Second Motion for Partial Summary Judgment of Non-Infringement of Claim 30 of U.S. Patent No. 5,845,885, dated April 20, 2006.	
	CT	Plaintiff's Opposition to Defendant's Second Motion for Partial Summary Judgment of Non-Infringement of Claim 30 of U.S. Patent No. 5,845,885, dated May 30, 2006.	
	CU	Declaration of Lee A. Swanger, PH.D., P.E., in Support of Plaintiff's Opposition to Defendant's Second Motion for Partial Summary Judgment of Non-Infringement of Claim 30 of U.S. Patent No. 5,845,885, dated May 30, 2006.	
	CV	Plaintiff's Opposition to Defendant's Third Motion for Partial Summary Judgment of Invalidity (Obviousness) of Claims 30, 35 & 36, of U.S. Patent No. 5,845,885 (Confidential Information regarding secondary considerations has been redacted), dated May 30, 2006.	
	CW	Declaration of Lee A. Swanger, PH.D., P.E., in Support of Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment of Invalidity (Obviousness) of Claims 30, 35 & 36, of U.S. Patent No. 5,845,885, dated May 30, 2006.	
	CX	Defendant's Fourth Motion for Partial Summary Judgment of Non-Infringement of Claims 30, 35, and 36 of U.S. Patent No. 5, 845,885, dated June 7, 2006.	
	CY	Defendant's Reply to Plaintiff's Opposition to Defendant's Third Motion for Partial Summary Judgment of Invalidity (Obviousness) of Claims 30, 35 & 36 of U.S. Patent No. 5,845,885, dated June 8, 2006.	
	CZ	NPI's Opposition to Gamber's Fourth Motion for Partial Summary Judgment of Non-Infringement and Cross-Motion to Exclude Untimely Non-Infringement Contentions (Redacted Defendant Gamber-Johnson's Confidential Information), dated June 26, 2006.	
	CA1	Declaration of Lee A. Swanger, PH.D., P.E., in Support of Plaintiff's Opposition to Defendant's Fourth Motion for Partial Summary Judgment of Non-Infringement and Cross-Motion to Exclude Untimely Non-Infringement Contentions, dated June 23, 2006.	
	CB1	Gamber-Johnson LLC's Reply to NPI's Opposition to Gamber's Fourth Motion for Partial Summary Judgment of Non-Infringement and Response to Cross-Motion to Exclude Untimely Non-Infringement Contentions, dated June 30, 2006.	
	CC1	Amended Consent Judgment, dated September 29, 2006.	
	CD1	Expert Report of Lee A. Swanger, PH.D., P.E., dated April 5, 2006. (w/Exhibits 1-10).	
	CE1	Expert Report of Robert H. Sturges, Ph.D., P.E., Concerning the Invalidity of Claims 30, 35 & 36 of U.S. Patent No. 5,845,885, dated April 5, 2006. (w/Appendices I-III).	
	CF1	Rebuttal Expert Report of Lee A. Swanger, PH.D., P.E., dated May 5, 2006. (w/Exhibit 1).	
	CG1	Rebuttal Expert Report of Robert H. Sturges, Ph.D., P.E., Concerning the Non-Infringement of Claims 30, 35 & 36 of U.S. Patent No. 5,845,885, dated May 5, 2006. (w/Exhibits A-D).	
	CH1	Deposition Transcript of Lee A. Swanger, dated June 5, 2006.	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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{S:\20339\1202884us1\80095123.DOC [REDACTED]}



Application No. (if known): 09/733,691

Attorney Docket No.: 20339/1202884-US1

## Certificate of Express Mailing Under 37 CFR 1.10

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Bruce E. Black

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